



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1239/2024

Narendra s/o Sheshraoji Pawde and others Vs. State of Maharashtra & others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Sudame, Advocate for petitioners.
Mr. N.R.Patil, AGP for the respondent nos.1 to 3 and 5.
Mr. Amol B. Patil, Advocate for respondent no.4.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATED : FEBRUARY 22, 2024.

1. Heard Mr. Sudame, learned counsel for the petitioners.
2. The petitioners, who are claiming to be the registered Contractors, have questioned the decision of the respondents in the matter of issuance of E-tender notice nos.192 and 193 of 2023. As according to them, the respondent - Municipal council ought not to have issued a consolidated tender for the works, which are mentioned in such tender notice. So as to substantiate the aforesaid contentions, Mr. Sudame, learned counsel appearing for the petitioners would invite attention of this Court to condition no.5 of Government Resolution dated 27th May, 2016 so as to claim that the language of condition 5 are misread and misinterpreted by the respondents. According to him, what is prohibited is the breaking of the existing approved work in pieces, however, it provides for clubbing of the work to be executed under the project or scheme in question.
3. As against above, counsel for respondent-Municipal Council submits that it is not the decision of the respondent - Municipal Council to issue a consolidated tender but, it is pursuant to the directions issued by the Government while granting administrative approval for the execution of work

in question. Such consolidated tender is issued, which is in tune with condition no.5 as referred above.

4. We have considered the rival claims.

5. The fact remains that the nature of work, which is to be executed under both tender notices are in relation to the concretization of the roads within the Municipal Council area. The object of condition no.5 of G.R dated 27th May, 2016 appears to be of getting the entire work executed through one tender process and not by breaking such work into pieces so as to facilitate the the Contractors/petitioners to participate in the tender process from their category in which they are registered.

6. It is pursuant to the Government directions the respondent-Municipal Council has issued the tender notice and same appears to be in the tune with condition no.5 and G.R. dated 27th May, 2016.

7. Merely because the petitioners are not registered in the class based on their financial capacity, thereby dis-entitling them to participating in the tender process does not give rise to the case of arbitrariness or unreasonableness clubbing of work. Clubbing of work is pursuant to the directions/policy of the Government, which has certain objects to be fulfilled.

8. That being so, no case for causing interference is made out. The petition fails and the same is dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Ambulkar